

10/532572

PCT

WRITTEN OPINION  
(PCT Rule 66)

To: Simon Murphy Private Bag 3140 Level 12 KPMG Centre 85 Alexandra St 2001 Hamilton		Date of mailing (day/month/year) 01 JUL 2004
Applicant's or agent's file reference 122785/31X285 RTM		REPLY DUE within <b>TWO MONTHS</b> from the above date of mailing
International Application No. <b>PCT/NZ2003/000235</b>	International Filing Date (day/month/year) 21 October 2003	Priority Date (day/month/year) 21 October 2002
International Patent Classification (IPC) or both national classification and IPC <b>Int. Cl. <sup>7</sup> E02D 7/08, E04G 23/08, E01C 23/12, E21B 1/02</b>		
Applicant <b>ROCKTEK LIMITED et al</b>		

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☒ Certain observations on the international application
3. The **FINAL DATE** by which the international preliminary examination report must be established according to Rule 69.2 is:  
**21 February 2005**
4. The applicant is hereby invited to reply to this opinion.
  - When?** See the **Reply Due** date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the **Final Date** by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established.  
**If no response is filed by 1 month before the Final Date**, the international preliminary examination report will be established on the basis of this opinion.  
Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least **3 months before the Final Date** by which the international preliminary examination report must be established.
  - How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3.  
For the form and the language of the amendments, see Rules 66.8 and 66.9.
  - Also** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis.  
For an informal communication with the examiner, see Rule 66.6.

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**I. Basis of the opinion**

With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of
2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
These elements were available or furnished to this Authority in the following language which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).
3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:
- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.
5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 16, 19-25 and 27-29	YES
	Claims 1-15, 17, 18, 26 and 30-33	NO
Inventive step (IS)	Claims	YES
	Claims 1-33	NO
Industrial applicability (IA)	Claims 1-33	YES
	Claims	NO

**2. Citations and explanations**

The following documents cited in the International Search Report have been considered for the purpose of this opinion:

- a) US 4813494
- b) US 3568657
- c) AU 16544/95
- d) US 5699864
- e) US 6196088
- f) SU 586240

**Claims 1-15, 17, 18, 26 and 30-33**

The invention defined in at least claim 1 is not novel when compared with each of the citations (a) - (e). US 4813494, which is considered to be the most relevant document with respect to the invention as presently defined also discloses all the features of the invention defined in claims 1-15, 17, 18, 26 and 30-33. Therefore the subject matter of claims 1-15, 17, 18, 26 and 30-33 is not new and does not meet the requirements of Article 33(2) PCT with regard to novelty.

**Claims 16, 19-25 and 27-29**

The features added by claims 16, 19-25 and 27-29 are known from SU 586240 (claims 16 and 19-25) or lie within the technical capabilities of the person skilled in the art (claims 27-29), the combination of SU 586240 with the other documents cited being obvious to the person skilled in the art. Therefore the subject matter of claims 16, 19-25 and 27-29 is obvious and does not meet the requirements of Article 33(3) PCT with regard to inventive step.

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 19 is not clear because it is appended to itself.